



Ministry
of Revenue

Margaret Scrivener
Minister

T.M. Russell
Deputy Minister

**Succession
Duty Branch**

Govt
Pubns

Information Bulletin

Land Speculation Tax Act

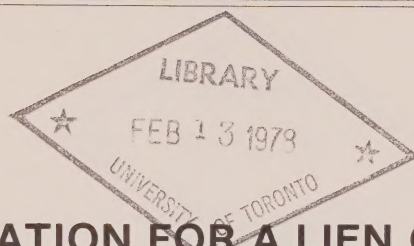
CA20N

RU 80

- I52

Number: 2/77

Date: October, 1977



APPLICATION FOR A LIEN CLEARANCE

Recent amendments to The Land Speculation Tax Act, 1974, have made it necessary to change the Application for a Lien Clearance form. A sample of the new form is enclosed, and additional supplies will soon be available from the Regional Assessment and Land Registry Offices listed on the form.

The revised form incorporates certain additional information that will be helpful in our consideration of the application. For example, the form now requires

- the date of acquisition by the transferor and the cost;
- a physical description of the property;
- greater detail under general headings, in relation to maintenance costs and costs of disposition.

It is requested that the form be completed in every detail where possible and that a copy of the agreement for purchase and sale be attached in every instance. It has been the experience of Ministry Auditors, that a carefully completed application form will speed up the audit process and reduce the need for correspondence in many cases.

The Ministry of Revenue personnel in the Regional Assessment and Land Registry Offices will be examining more closely the application forms as they are received to ensure that they are fully completed before being forwarded to head office. The Ministry asks for your cooperation in this regard.



Ministry
of Revenue

Ontario

Margaret Scrivener
Minister

T.M. Russell
Deputy Minister

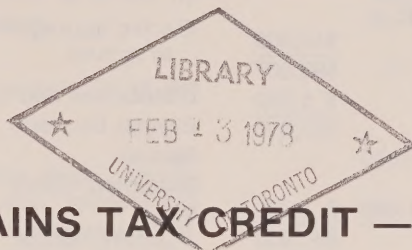
Succession Duty Branch

Information Bulletin

Succession Duty Act

Number 2/77

Date: October, 1977



CAPITAL GAINS TAX CREDIT — SECTION 7a

GENERAL

The Succession Duty Act (R.S.O. 1970) was amended on July 12, 1977. The amendment enacts a new section to permit the executors of an estate to elect to have taxes payable under The Income Tax Act (Canada) in respect of certain deemed dispositions on death, treated as a credit against succession duty payable by the beneficiary. Where such election has been made the amendment has the following effects:

- Taxes payable in respect of deemed dispositions under The Income Tax Act will be disallowed as debts of the estate.
- The amount of such taxes will be allocated as a credit against any succession duty payable by each beneficiary in proportion to the dutiable value of that beneficiary's share of the estate to the extent of that beneficiary's liability for succession duty.

Only that portion of such taxes that dutiable value bears to the total value of the estate will be credited and only to the extent of that beneficiary's liability for succession duty.

Regulation 722/77 amending Regulation 804 R.R.O. 1970, which is part of this bulletin gives substance and effect to the enactment.

EFFECTIVE DATE

This amendment to The Succession Duty Act is effective from April 20, 1977, and will be applicable to estates of deceased persons arising on and after that date.

CALCULATION OF THE CAPITAL GAINS TAX CREDIT

The following steps are necessary to calculate the allowable credit:

- A. Calculate the taxable income in the year of death of the decedent **including** capital gains deemed to have been realized at death [sections 70(5); 70(5.1) and 70(5.2) of The Income Tax Act (Canada)] and the total tax payable on that income.
- B. Calculate the taxable income **excluding** the deemed realizations and the tax on that income.
- C. Subtract B from A; the difference is the creditable amount which may be applied against succession duty. The balance is deductible under section 3(6) of The Succession Duty Act.

NOTE: **RE LIMITATION** — THE CREDIT CANNOT EXCEED THE DUTY OTHERWISE PAYABLE BY THE BENEFICIARY UNDER THE ACT.

An illustrative example follows, together with a calculation indicating how the credit is allocated in that example, among the various beneficiaries.

CALCULATION OF CREDIT

Calculation of Net Income

Income		\$50,000
Capital gains deemed to have been realized at death [sections 70(5), (5.1) and (5.2) of The Income Tax Act]	\$10,000	
TOTAL INCOME	\$60,000	
Donations	\$ 5,000	
NET INCOME	\$55,000	
Exemptions	\$4,000	
Medical expenses, charity and other deductions	\$1,000	\$ 5,000
TAXABLE INCOME		<u>\$50,000</u>

Calculation of Income Tax on \$50,000

Taxable Income			
\$ 8,966.00	Federal tax	\$16,232	
\$ 7,266.00*	Provincial tax	\$ 4,951	
\$16,232.00		\$21,183	
	Ont. credit, say	283	
	TOTAL TAX	\$20,900	
*39% on \$18,632			

Calculation of income without "deemed dispositions" at death

Actual Taxable Income as above	\$50,000
Less: Portion thereof arising from "deemed dispositions"	<u>\$10,000</u>
Taxable Income exclusive of "deemed dispositions"	<u>\$40,000</u>

Calculation of Income Tax on \$40,000

Taxable Income			
\$ 8,966.00	Federal tax	\$12,332	
\$ 3,366.00*	Provincial tax	\$ 3,761	
\$12,332.00		\$16,093	
	Ont. credit, say	263	
	TOTAL TAX	\$15,830	
*39% on \$8,632			

CALCULATION OF CREDIT

Reg. 804/1970, section 27(2) (i)	\$20,900
less 27(2) (ii)	<u>\$15,830</u>
	\$ 5,070

DEBT under S.3(6) of the Act	\$15,830
CREDIT against succession duties	\$ 5,070
Total Income Tax liability	<u>\$20,900</u>

CALCULATION OF SUCCESSION DUTY

Gross value of assets	\$715,830
Debts, section 3(6)	\$ 15,830
	<u>\$700,000</u>
Elected aggregate value + benefit to spouse	\$700,000

Distribution and Duty

Exempt bequests	\$ 10,000 @ nil	—
Spouse	\$300,000 @ nil	—
Daughter, legacy	\$ 20,000 @ 14%	\$ 2,800
Son		
farming assets	\$200,000 @ 14%	\$ 28,000
residue	\$ 80,000 @ 14%	\$ 11,200
Non-related person	\$ 90,000 @ 28.6%	\$ 25,740
	\$700,000	\$ 67,740

Credit, section 7a(2)		
daughter	\$ 254	
son		
farming	\$ 2,535	
residue	\$ 1,014	
non-related person	\$ 1,141	\$ 4,944
		<u>\$ 62,796</u>

ALLOCATION OF CREDIT

Elected aggregate value + benefits to spouse	\$700,000
Spouse's benefits	\$300,000
Elected aggregate value	<u>\$400,000</u>

Credit Formula

$$\frac{\text{Elected dutiable value} \times \text{Tax credit}}{\text{Elected aggregate value}}$$

Credit		
Daughter	$\frac{20,000}{400,000} \times 5,070 =$	254
Son	$\frac{280,000}{400,000} \times 5,070 =$	3,549
Non-related	$\frac{90,000}{400,000} \times 5,070 =$	1,141
	$\frac{10,000}{400,000} \times 5,070 =$	126*
		<u>5,070</u>

*In this example no credit applies to the bequests of \$10,000 as no succession duty is attracted thereon.

Where succession duty is payable and deemed capital dispositions have been made, election and credit calculation worksheet forms will be mailed to all estate representatives.

**REGULATION TO AMEND
REGULATION 804 OF REVISED REGULATIONS OF ONTARIO, 1970
MADE UNDER
THE SUCCESSION DUTY ACT**

1. Regulation 804 of Revised Regulations of Ontario, 1970, as amended by Ontario Regulations 497/71, 348/73 and 43/77, is further amended by adding thereto the following section:

27.-(1) For the purpose of section 7a of the Act,

(a) "elected aggregate value" means the aggregate value, ascertained in accordance with paragraph 1 of subsection 2 of section 7a of the Act, of all property passing on the death of the deceased and of all dispositions made by the deceased that do not come within clause g of subsection 1 of section 5 of the Act, minus the elected dutiable value of all property passing on the death of the deceased to or for the benefit of a spouse of the deceased and of all dispositions to such spouse;

(b) "elected dutiable value", with respect to a person for whom a deduction under subsection 2 of section 7a of the Act is computed, means the dutiable value, ascertained in accordance with paragraph 1 of subsection 2 of section 7a of the Act, of,

- (i) all property situate in Ontario that passes on the death of the deceased to or for the benefit of that person,
- (ii) all transmissions with respect to which duty is levied on that person, and
- (iii) all dispositions to that person that do not come within clause g of subsection 1 of section 5 of the act and with respect to which duty is levied.

(2) The proportion prescribed for the purpose of clause b of subsection 4 of section 7a of the Act is the amount by which,


- (i) the amount of the tax payable under The Income Tax Act (Ontario) and the Income Tax Act (Canada) in respect of the return that is required under those Acts for the taxation year in which the deceased died and on which are required to be reported dispositions deemed to occur by subsection 5, 5.1 or 5.2 of section 70 of the Income Tax Act (Canada), minus an amount equal to the amount of any payment deemed by subsection 6 of section 164 of the Income Tax Act (Canada) to have been made,

exceeds,

- (ii) the amount of the tax that would be payable under The Income Tax Act (Ontario) and the Income Tax Act (Canada) in respect of the return described in subclause i if that tax were determined without reference to dispositions deemed to occur by subsection 5, 5.1 or 5.2 of section 70 of the Income Tax Act (Canada), and without reference to any payment deemed by subsection 6 of section 164 of the Income Tax Act (Canada) to have been made.

(3) The election to be made under section 7a of the Act shall be made to the Minister in writing signed by all executors acting in the administration of the estate of the deceased and in such form as shall clearly show that an election to have section 7a of the Act apply has been made.

2. This Regulation shall be deemed to have come into force on the 20th day of April, 1977.



Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761120624895>



Ontario

Ministry
of
Revenue

Lorne Maeck
Minister

T. M. Russell
Deputy Minister

Succession Duty and Land Taxes Branch

Information Bulletin

Succession Duty Act

Number 1/80

Date: April/80

CALON
RM80
- 152

THE SUCCESSION DUTY ACT SUPPLEMENTARY PROVISIONS ACT, 1980

This Bulletin is to advise you of the introduction in the Legislative Assembly of a Bill to deal with

- Deferral of duty on interests in expectancy
- Encroachments made out of dutiable property

HIGHLIGHTS

- INCENTIVES
- BENEFITS
- ENCROACHMENTS

THIS BULLETIN AFFECTS

- Solicitors, Accountants and other professional advisors
- Personal and Corporate Executors and Administrators and Trustees
- Banks, Trust Companies and others in a fiduciary capacity

INCENTIVES

In those estates where there has been a deferral of duty on interests in expectancy until the falling in or the commencement of enjoyment of those interests, the estate may elect before December 1, 1980,

- to pay the duty by January 1, 1981 on interests in expectancy to which the deceased was entitled at his death or which were created by him in his Will or in his lifetime, and
- to value such interests at their value on April 10, 1979, the last date on which the former Succession Duty Act was in force.

Pour obtenir cette publication en français, veuillez communiquer avec la Direction des Droits de Succession et des Impôts Fonciers.

BENEFITS

If the election is taken and the interests are dealt with,

- the costs of valuing property may be deducted from the value of the property liable for duty,
- the estate will be closed out, and
- the beneficiaries of the estate will not be liable to duty on the increase in value that may have taken place after the repeal of The Succession Duty Act.

ENCROACHMENTS

The Bill provides that where entitlement to the possession or enjoyment of any benefit from any property right or thing is taken after the repeal of The Succession Duty Act as of April 10, 1979, that benefit will be liable to duty at the rates applicable to the person taking the benefit, as determined by the Bill and that benefit will not give rise to a refund of duty.

Examples of applicable situations are set out below

- Conferring of a benefit by the exercise, after the repeal of the former Succession Duty Act, of a discretionary power.
- Allocation, after the repeal of the former Succession Duty Act, in favour of a particular person of property passing on the deceased's death and not specifically given to that person by the Will.
- Extinguishment, release or transfer of a right held by any person by which another benefits.

One exception will be allowed when these conditions apply:

- where the entitlement arises from the exercise of a discretionary power for the maintenance, advancement or benefit of any person or class of person designated in the Will of the deceased or in a trust made by the deceased in his lifetime, and,
- where the Minister is satisfied that the benefit to which any person thereby becomes entitled is reasonable and necessary having regard to the financial circumstances of that person and his relationship to the deceased, and,
- where the exercise of discretion is not for the purpose of reducing duty payable under the former Succession Duty Act.

QUERIES

For further information on the Bill

- | | |
|----------------|---------------------------------------|
| ● Telephone | ● Write |
| (416) 965-1700 | Succession Duty and Land Taxes Branch |
| | Ministry of Revenue |
| | Queen's Park |
| | Toronto, Ontario |
| | M7A 1Y2 |

